

CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. PB-12-03

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING USE PERMIT APPLICATION, PLN12-0094 FOR THE ESTABLISHMENT OF A FLEA MARKET TO BE LOCATED ON THE CAMPUS OF THE COLLEGE OF ALAMEDA

WHEREAS, an application was made by Peralta Community College District; College of Alameda, for a Use Permit approval of a Flea Market to be located on the campus of the College of Alameda, 555 Ralph Appezzatto Memorial Parkway; and

WHEREAS, the subject property is designated Public/Institutional (P) on the General Plan Diagram; and

WHEREAS, the subject property is located in a Neighborhood Residential (R-4) Zoning District; and

WHEREAS, this project was found to be Categorically Exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15304 (e) – Minor Temporary Use of Land.

WHEREAS, Planning Board held a public hearing on this application on April 23, 2012; and

WHEREAS, the Planning Board has made the following finding relative to the Use Permit:

1. The location of the proposed use is compatible with other land uses in the general neighborhood area.

As limited in the conditions listed in this resolution, the project shall not cause undue noise, litter or traffic in the neighborhood area.

2. The proposed use will be served by adequate transportation and service facilities.

Adequate facilities have been proposed in this project to provide adequate vehicular, bicycle and pedestrian access to the site. In addition, AC Transit buses also serve the Webster Street corridor and have a bus shelter on the College campus.

3. The proposed use, as conditioned, shall not adversely affect other property in the vicinity.

As limited in the conditions listed in the resolution, the application shall not cause undue noise, litter or traffic in the neighborhood area.

4. The proposed use relates favorably to the General Plan.
The are many goals in the General Plan that speak favorably to adding versatile retail uses to the Webster Street Corridor as well as in the City's Gateway Entrances.

BE IT RESOLVED THAT the Planning Board of the City of Alameda hereby approves Use Permit PLN12-0094, for the establishment of a Flea Market subject to compliance with the following conditions:

1. **Compliance with Conditions:** The applicant/property owner shall ensure compliance with all of the following conditions. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Permit.
2. **Compliance with City Ordinances:** The approved use and/or construction are subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.
3. **Permit Modification or Revocation:** The Planning Board and/or City Council shall have the authority to modify or revoke this entitlement upon finding that the maintenance or operation of the proposed establishment violates any of these conditions or is detrimental to persons residing or working in the neighborhood, to property and improvements in the neighborhood or to the general welfare of the City.
4. **Six Month Review:** Staff shall schedule the use permit for a six-month review by the Planning Board. The six-month review shall be proceeded by a notice of the review to be sent to all property owners within 300 feet of the site and a posting of the hearing adjacent to the site. If the Planning Board finds that upon consideration of all pertinent materials and testimony that operation of the use is no longer consistent with the conditions of approval or is creating a adverse impact on the adjacent community, the Planning Board may revoke or amend the use permit.
5. **Hours and Days of Operation:** The use shall be limited to the Saturdays of every month. The hours that the market will be open to the public shall be from 8:00 am to 4:00 pm. Set up of vendors shall not begin before 7:00 am and extend no later than 5:00 pm to allow for set up and take down of the market.
6. **Number of vendors and visitors on the site at any one time:** The maximum number of vendors shall be 200. The maximum number of visitor's with motor vehicles shall be 380. The applicant, shall:
 - a) Ensure that each sub-vendor obtain a City Business License by collecting fee and license application to remit to the City or showing a valid City issued license.
 - b) Obtain a copy of any vendors valid resale permit and provide a copy to the City.

- c) Provide any vendor providing a valid resale permit an instruction sheet informing them that sales tax collected and remitted should be designated as within the City of Alameda and not Alameda County.
7. **Visitor Count:** The applicant shall maintain a count of total visitors that attend each market and make this information available to the City upon request. This use permit and associated conditions are based upon the applicant's estimate that no more than 1,000 visitors/attendees throughout the entire business day and noting the maximum of 340 visitor's vehicles will attend a weekly event at any one time.
 8. **Trash Collection:** The applicant shall provide trash and recycling receptacles throughout the site. The applicant shall include as standard language in all of their contracts that the vendor shall provide litter control as part of their services rendered. This litter control shall at a minimum occur throughout the hours that the event is in operation; and at the end of the event once all of the public has left and the vendors are closed. Representatives of the Flea Market shall also be required to complete litter clean up patrols throughout the campus as needed during each event; and once after closing the market to avoid litter from collecting on the site and/or blowing off site into the neighborhood.
 9. **Noise and Litter Site Control:** The applicant shall provide the Director of Community Development with the name and telephone number of the individual empowered to manage noise complaints and debris control from the project set-up and take down. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of the use, in a location easily visible to the public. Noisy stationary construction equipment, such as compressors, shall be placed away from developed areas off-site and/or provided with acoustical shielding to comply with maximum noise emissions stipulated in Section 4-6 of the Alameda Municipal Code. No amplified sound is permitted as part of this use. The Use shall comply with the Noise Ordinance, specifically: Exterior Noise Standards limit the maximum amount of decibels (extending for 30 minutes or more) to 55, from the hours of 7:00 am to 10:00 pm. This noise measurement is to be taken on the outside of the neighboring residential building.
 10. **Traffic Control.** The final traffic and circulation plan shall be submitted to planning staff to approval prior to the start of the flea market, as governed by this entitlement. The plan shall reflect all the rules and directives stated in the Staff Report to the Planning Board of April 23, 2012. A copy of these rules shall be attached to every vendor contract. Prior to the six-month review, the applicant shall submit to the Public Works Director a traffic contingency plan in the event of an emergency tube closure. Completion of the traffic contingency plan to the satisfaction of the Public Works Director shall be required prior to the six-month review.

11. Temporary Signs. No temporary signs shall be placed in the public right of way (city owned or state owned) without a City of Alameda encroachment permit or a Caltrans encroachment permit.

12. Conditions of Approval for Food Trucks as part of this Entitlement:

- a. Food trucks will locate and operate exclusively on the flea market site and only during permitted operating hours.
- b. Amplified sound is not allowed, and each food truck must comply with the City's noise ordinances.
- c. Each truck must ensure that no pollutants, including food waste/grease, liquid wastes, garbage/debris, and other materials are discharged to the City's storm drain system (including gutters, curbs, and storm drains).
- d. Each truck is required to pick up, remove, and dispose of all garbage, refuse or litter consisting of foodstuffs, wrappers, and/or materials dispensed from the vending vehicle as well as any residue deposited on the street or pavement on which the truck is situated, and otherwise maintain in a clean pavement debris-free condition the entire area within a 25-foot radius of the location where mobile food vending is occurring.
- e. Each truck must use best management practices and dry methods of cleaning to prevent accumulation or discharge of any materials to the City's storm drain system (including gutters, curbs, and storm drains).
- f. Each truck shall ensure that any wash water from surface cleaning activities shall be collected and discharged to the sanitary sewer system and shall implement surface cleaning best management practices described in the Bay Area Stormwater Management Agencies Association (BASMAA) "Pollution From Surface Cleaning" guidance document.
- g. Each truck shall provide sufficient garbage, recycling and organic collection receptacles during its operation. All receptacles shall be removed prior to leaving the site.
- h. No truck shall provide prepared food to customers in disposable food service ware that uses polystyrene foam.

- i. Each truck must obtain a City Business License, based on same classification as restaurants prior to their commencement of operation under this entitlement.
- j. Each truck must provide proof of insurance and valid CA drivers license to the satisfaction of the Community Development Director.
- k. Each truck must provide proof of a valid health permit from the County enforcement agency to the satisfaction of the Community Development Director.
- l. Each truck is required to obtain a hazardous materials permit when quantities of propane are equal to or exceed ten (10) gallons to the satisfaction of the Alameda Police Department.
- m. Food Truck operators will be required to provide proof of agreement from the property owner and no off-site sales from food trucks will be permitted. All food sales associated with this entitlement must take place within the flea market project area.
- n. **Revocation** This Use Permit may be modified or revoked by the Zoning Administrator or Planning Board, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator or Planning Board determine that the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity; the property is operated or maintained so as to constitute a public nuisance; or the use is operated in violation of the conditions of the use permit.
- o. The Food Truck portion of this Use Permit is valid for one (1) year with annual renewals subject to administrative review, modification (if necessary), and approval.
- p. The Applicant may apply for a renewal, not to exceed one (1) year, and must be filed prior to the date of expiration. Renewal of the permit may depend upon additional restrictions to address public safety, traffic circulation, or other relevant issues reviewed at the time of renewal.
- q. Upon a determination that post-event surface cleaning is necessary, the permit holder shall utilize a BASMAA-certified surface cleaner and ensure that no washwaters or residues are discharged to any local storm drain inlet. The Liquid Waste and Wash Water Management Plan would need to be revised

accordingly to state the requirement to utilize the certified surface cleaner.

- r. Upon a determination that any greywater handling location(s) are necessary, the Food Truck operator shall revisit the Food Vendor Waste Management Policy (Policy) and the Liquid Waste and Wash Water Management Plan (Plan) shall be revised, accordingly. The Plan would need to include an event map indicating the location(s) of liquid waste and greywater handling site(s). The Policy would need to direct vendors to the appropriate use of the greywater handling location(s).
- s. It is noted that there is no potable water available in Parking Lot A, and all water for use in Food Trucks must be brought by the Vendor.
- t. Liquid waste water, including water for washing surface areas, utensils, and hand washing must be appropriately contained and removed from the College grounds. There is to be no discharging of waste water on the College premises.
- u. There will be no 'dumping' of ice onto the pavement or elsewhere on the College premises.
- v. All food waste, cardboard, and used paper containers from your Truck or Booth are to be removed from the College premises when you leave for the day.

13. Indemnification. The Applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda City Planning Board, and their respective agents, officers, or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Community Development Department, Alameda City Planning Board, the City of or City Council related to this project. The City shall promptly notify the Applicant of any claim, action, or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda

during the Regular Meeting of the Planning Board on the 23rd day of April, 2012,
by the following vote to wit:

AYES: (5) Zuppan, Burton Ezzy Ashcraft, Henneberry, Knox
White, and Köster

NOES: (0)

ABSENT: (0)

ATTEST:



Andrew Thomas, Secretary
City of Alameda Planning Board

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